In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.20050-M of 2007

.....

Date of decision:29.5.2007

Sumer Chand and another

.....Petitioners

v.

Union Territory, Chandigarh

.....Respondent

....

Present: Mr. S.S. Rana, Advocate for the petitioners.

Mr. Surinder Singh Duhan, Additional P.P., Union Territory, Chandigarh.

Ms. Naveen Malik, Advocate for the complainant.

.....

S.S. Saron, J. (Oral)

Heard learned counsel for the parties.

The FIR has been registered on the complaint of Suraj Kumar alleging trespass, theft and holding out threat of murder by Sumer Chand (petitioner No.1) and others. It is alleged by the complainant that he is resident of House No.424, Village Hallo Majra, U.T., Chandigarh. On 18.7.2006, he was out of city for personal work. When he returned, he found that the lock of his room had been changed and articles were taken out from the room. He came to know that while he was out of station Sumer Chand (petitioner No.1) and Charan Dass (petitioner No.2) came and ransacked his room.

Learned counsel for the petitioners has contended that the complainant was never in possession of the room and, therefore, question of taking possession does not arise. He has referred to the order of status quo dated 19.2.2004 (Annexure-P.1) passed by the learned Civil Judge (Junior Division), Chandigarh which it is stated is in his favour.

In response, learned counsel for the U.T. Administration and the complainant have submitted that the petitioners though have joined the investigation but he has not got the articles recovered. Besides, it is submitted that the petitioners have taken possession of the room which was in possession of the complainant forcibly while he was out of station.

After giving my thoughtful consideration to the matter, it is not disputed by learned counsel for the petitioners that the complainant Suraj Kumar is not a party to the civil suit in which the order of status quo dated 19.2.2004 (Annexure-P.1) has been passed. A perusal of the order dated 16.3.2007 (Annexure-P.3) passed by the learned Additional Sessions Judge, Chandigarh would show that during investigation the complainant was found to be residing in the room. Even in the civil litigation it was pleaded by the petitioners that the complainant was occupying one room in the house in question. Besides, information regarding his occupation had been given to the Police by the landlord three years back. Therefore, it was observed that in such a situation at this stage there was nothing to infer that the complainant was not residing in the alleged premises which had been ransacked. Learned counsel for the petitioners has not been able to show any material to dislodge the said findings recorded by the learned Additional Sessions Judge in his order dated 16.3.2007 (Annexure-P.3).

In the circumstances, no ground for pre-arrest bail is made out.

The criminal miscellaneous petition is dismissed.

May 29, 2007. **(S.S. Saron)**
Judge

hsp